**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CWP No.: 527 of 2002.**

**Decided on: 18.4.2007.**

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**Bakshish Singh.**

**… … … Petitioner.**

**Versus**

**State of Himachal Pradesh & Ors .**

**… … … Respondents.**

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**Coram:**

**The Hon'ble Mr. Justice Rajiv Sharma, J.**

*Whether approved for reporting? No.*

**For the Petitioner**: **Mr. K.D. Sood, Advocate with Mr. Rajnish K. Lal Advocate.**

**For theRespondents:** **Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General.**

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**Rajiv Sharma, Judge (Oral):**

By medium of this petition the order dated 11.10.1999, i.e. Annexure P-2 and order dated 29.10.2001, i.e. Annexure P-1 have been assailed.

The brief facts necessary for adjudication of this petition are that Shri K.K. Thakur, Forest Ranger, Range Forest Officer, Hurla has filed the complaint against the petitioner to the effect that on 29.4.1996 beat Forest

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Whether reporters of local papers may be allowed to see the judgment? No.

Guard Joginder Dass, incharge Noral beat and Deputy Ranger Mehar Chand, incharge Garsa Forest Block accompanied with Naib Tehsildar Forests, Lok Raj Saini, Kullu Circle, demarcated the land alongside Khasra No. 1865 to 1871 in the presence of the petitioner. After demarcation, it was detected that petitioner has illegally encroached upon the Government Forest land measuring 10 bighas 10 biswas in Undemarcated Protected Forest Bhallan III alongwith 38 numbers standing trees of different classes by erecting bush fencing. Accordingly, the Forest Guard, incharge Narol beat issued the damage report No.40/26 dated 29.4.1996 against the petitioner. On the basis of damage report, show cause notice dated 30.4.1997 under sub-section (1) of Section 4 of H.P. Public Premises and Land (Eviction & Rent Recovery) Act, 1971 was served on the petitioner.

The petitioner has filed reply to the show cause. The Divisional Forest Officer, Parvati Forest Division at Shamshi, District Kullu (H.P.)-cum-Collector framed the issues on the pleadings of the parties. The Collector-cum-DFO, Forest Divisin, Shamshi passed the final order against the petitioner on 11.10.1999. The Collector-cum-DFO, Parvati Forest Divisin, Shamshi has ordered the eviction of the petitioner from the illegally encroached Government Forest land. The Collector-cum-DFO has further directed that a sum of Rs.1,44,840/- be recovered as rental value from the petitioner besides an additional rental value at the rate of Rs.200/- per biswa per year was to be recovered from the petitioner till the unauthorized possession of the Government land was vacated by the petitioner.

The petitioner aggrieved by the order dated 11.10.1999 field appeal under Section 9 of the H.P. Public Premises and Land (Eviction & Rent

Recovery) Act, 1971 before the Commissioner (Revenue). The Commissioner (Revenue) has affirmed the order of the Collector-cum-DFO on 29.10.2001.

Mr. Kapil Dev Sood has submitted during the course of arguments that his client is ready and willing to vacate the land measuring 10 bighas 10 biswas comprising in Khasra No.1865 to 1871 if the amount of penalty imposed by the Collector-cum-DFO and affirmed by the Commissioner (Revenue) is reduced being harsh and excessive. Mr. M.S. Chandel, learned Advocate General has supported the orders passed by the Collector-cum-DFO and Commissioner (Revenue).

I have perused the record and heard the parties. I am of the firm view that those who defy the law must be dealt with strictly and no compassion is to be shown to them. In the present case, the petitioner has occupied the forest land alongwith forest produce measuring 10 bighas 10 biswas. But for the prompt action by the Officers/officials of the Forest Department, the petitioner might have continued to reap the benefits of his defiance of law by occupying the Government land. The order passed by the Collector-cum-DFO is a speaking and well reasoned order. Similarly, the order passed by the Commissioner in appeal under Section 9 of the H.P. Public Premises and Land) Eviction and Rent Recovery) Act, 1971 is in accordance with law. Since Mr. Kapil Dev's client has agreed to vacate the Government Forest land forthwith, this Court is of the opinion that in view of submission made by Mr. Kapil Dev Sood some concession without treating it a precedent can be given to the petitioner.

Accordingly, the writ petition is disposed of by issuing the following directions:-

i) the petitioner will vacate the Government Forest land measuring 10 bighas 10 biswas detailed in the orders alongwith forest produce, i.e. 38 number of standing trees within three weeks;

ii) the Secretary (Forests) to the Government of Himachal Pradesh is directed to depute a high ranking Officer not below the rank of Divisional Forest Officer to take over the possession of the land from the petitioner;

iii) the amount of penalty imposed by the Collector-cum-DFO and affirmed by the Commissioner (Revenue) is reduced to half and the same is to be paid by the petitioner simultaneously at the time of vacation of land;

iv) the petitioner is directed to file undertaking before the Registrar General of this Court to vacate the land in question within a period of 15 days;

v) the Secretary (Forests) is also directed to file affidavit of compliance giving therein the details of taking over the possession of the land from the petitioner as well as the amount received as per direction No.(iii).

There shall be no order as to costs.

**(Rajiv Sharma)**
**Judge**

**April 18, 2007.**
**(sck)**